

City Council Meeting Minutes

**February 18, 2020
City Hall, Council Chambers
749 Main Street
6:00 PM**

Call to Order – Mayor Stolzmann called the meeting to order at 6:00 p.m.

Roll Call was taken and the following members were present:

City Council: ***Mayor Ashley Stolzmann
Mayor Pro Tem Dennis Maloney
Councilmember Kyle Brown (arrived 6:05 pm)
Councilmember J. Caleb Dickinson
Councilmember Deborah Fahey
Councilmember Chris Leh
Councilmember Jeff Lipton***

Staff Present: ***Heather Balser, City Manager
Megan Davis, Deputy City Manager
Kurt Kowar, Public Works Director
Rob Zuccaro, Planning & Building Safety Director
Felicity Selvoski, Planner I
Megan Pierce, Economic Vitality Director
Meredyth Muth, City Clerk***

Others Present: ***Kathleen Kelly, City Attorney***

PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Stolzmann requested the order of the agenda be changed from what was published. She reviewed the new order and moved to approve the agenda as amended; seconded by Councilmember Lipton. All in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA AND THE CONSENT AGENDA

Dave Sinkey, 712 Main Street, stated he had received very positive comments about the holiday lights this year helping to make downtown a destination. Also, he stated the more Council and staff learn about metro districts the better; he stated these tools are essential.

APPROVAL OF THE CONSENT AGENDA

Mayor Stolzmann called for changes to the consent agenda. Hearing none she asked for a motion to approve the consent agenda. Councilmember Lipton moved to approve the agenda; seconded by Fahey. All in favor.

- A. Approval of Bills**
- B. Approval of Minutes: February 4, 2020**
- C. Approval of Professional Services Agreement for 2020 Performance Measures Refinement**
- D. Approval of Meeting Schedule Changes**
- E. Approval of Professional Services Agreement for 2020 Citizen Survey**
- F. Approval of Appointment to the Historic Preservation Commission**

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

None.

CITY MANAGER'S REPORT

None.

REGULAR BUSINESS

PRESENTATION – BOULDER COUNTY CLERK AND RECORDER

Mircalla Wozniak gave a presentation on the upcoming 2020 election. She covered the election processes for the presidential primary, the senate and congressional primary, and the general election; important dates; the mail ballot process; and election security.

RESOLUTION NO. 15, SERIES 2020 – A RESOLUTION APPROVING AN AGREEMENT AMONG THE CITY OF LOUISVILLE, THE LOUISVILLE REVITALIZATION COMMISSION, AND THE LOUISVILLE FIRE PROTECTION DISTRICT FOR PROPERTY TAX TIF REVENUE SHARING

Economic Vitality Director Megan Pierce stated the agreement in the packet was approved by both the Revitalization Commission (LRC) and the Fire District and now needs Council approval before the LRC can take final action. She reviewed the terms of

the agreement as proposed which include payments of 25% of the TIF revenues on the original mill levy and payments of 100% of the newly approved 3.9 mill levy.

She noted the LRC has already budgeted for these payments in 2020. Payments would be collected through the end of the TIF with the last payment in 2034. She also noted the agreement identifies that these payments are subordinate to early agreements.

John Willson, Fire Chief from Louisville Fire Protection District, stated there are two questions for consideration with the agreement. The first question is will the City pass through the 3.9 mill levy increase that was just approved by voters for the Fire District; and will the LRC share back 25% of funds from the original TIF agreement.

Willson stated response time is key for the district and the recent mill levy increase will improve response times as the additional revenue can be used for a second, full-time engine crew; recruitment and retention of employees; and replacement of emergency equipment and apparatus. He noted the increase in workload the department is facing.

He noted this agreement does not guarantee a revenue source and will require annual approval. He noted the original creation of the Urban Renewal District did not consider payments to the Fire District.

Public Comments

Susan Loo, 1020 Willow Place, stated property tax is more stable than sales tax so a loss of property tax to the City has an impact. She stated the agreement with the County has a cap which this agreement does not. She stated the Council has no legal obligation to fund the Fire District and this would be taking money from the LRC and revitalization efforts.

Councilmember Lipton stated the LRC is looking at recalculating its budget to take into account expired PUDs and uncompleted projects; that estimate will be based on actual building permits so we know if the LRC budget is overstated. The LRC is not awash in money but is developing good revenue sources but not to the extent we may have once thought we would have. The LRC is now gaining traction on revitalization and infrastructure in the area and there are lots of projects to spend it on.

Mayor Pro Tem Maloney stated Council strongly supports the Fire District. He noted the LRC budget did have a placeholder for these payments if the ballot issue did not pass. He added the list of items the district wants to spend this on is the same list as what was used for the ballot issue. He stated he is having a hard time supporting this as the mill levy increase was approved and the LRC has its own uses for the funds.

Mayor Stolzmann stated she favors the resolution. The voters clearly support the Fire District and voters thought the increase in the urban renewal area would go to the District not the LRC. It is important to give the new mill levy to the District and she supports giving

the District the 25% share of the TIF revenue. The District continues to serve areas of the City that are in the Urban Renewal Area without getting funding from them.

Councilmember Dickinson stated his understanding was that if the mill levy did not pass then the City would consider this, but with the recent mill levy increase this is a different conversation. He feels the District should have asked for a slightly higher mill levy to cover this. He stated the LRC needs the funding as well.

Councilmember Lipton stated his assumption was that if the ballot issue passed this agreement would not be needed. This request is not what was represented to us six months ago.

Councilmember Leh stated the Fire District is simply trying to improve their situation. However, given the approval of the mill levy increase last fall he doesn't feel it is appropriate now to support this.

Councilmember Fahey stated the 3.9 mill levy should go to the Fire District but that the original TIF funding could be better spent on issues in the Revitalization Area.

Councilmember Brown stated the intent of voters is important and people intended for that mill levy increase to go to the Fire District. It is important to honor that and he supports approval of the resolution.

Councilmember Dickinson suggested adjusting the numbers to give the District some funds but not such a large percentage of the TIF funds.

Councilmember Brown suggested an agreement that would allow the District to get all of the new 3.9 mill levy and the LRC keep all of the original TIF funding.

Mayor Pro Tem Maloney stated he was uncomfortable making changes to the amounts on the dais without full information. Councilmember Lipton agreed and added new LRC revenue projections should be taken into consideration before making changes.

Mayor Stolzmann moved to approve Resolution No. 15; Councilmember Brown seconded the motion.

Mayor Stolzmann stated she supports the resolution and the share back of the 25% of the TIF particularly because if the District had asked for this when the URA was created they would have gotten it then. The 3.9 mills is a new tax the voters approved and she feels it should be passed through to the District.

Councilmember Lipton proposed a substitute motion to continue the item to May 19 when the new revenue projections for the urban renewal area are known and more information is available. Councilmember Fahey seconded.

Vote on substitute motion. All in favor.

RESOLUTION NO. 13, SERIES 2020 – A RESOLUTION APPROVING A BUSINESS ASSISTANT AGREEMENT WITH LINMARK, INC. FOR AN ECONOMIC DEVELOPMENT PROJECT IN THE CITY OF LOUISVILLE (COAL CREEK ACE HARDWARE)

Economic Vitality Director Megan Pierce stated Linmark, Inc. plans to open Coal Creek Ace Hardware. Linmark, Inc. is still negotiating to lease the space at 1375 East South Boulder Road. This site is currently unoccupied. The company projects retail sales at \$11.1 million in first five years of operation and it plans to hire 10 to 15 employees at opening and grow to 20 to 25 jobs within five years.

Director Pierce stated the BAP meets the following program criteria: draws new customers; creates new sales tax; utilizes an existing building; brings new basic jobs to the City; represents job diversity; and brings a new retail outlet.

Director Pierce reviewed the proposed 40% rebate of sales tax revenue generated over the first five years. It also requires the tenant remain in the location for 10 years or they must repay a portion of the rebate.

Public Comments – None.

Mayor Pro Tem Maloney moved to approve Resolution 15; Councilmember Lipton seconded the motion.

Voice vote: all in favor.

CITY ATTORNEY'S REPORT

None.

COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

ADVANCED AGENDA – Mayor Stolzmann noted there will need to be an executive session for property acquisition on March 3.

Mayor Pro Tem Maloney moved to add an agenda item to March 3 to appoint Mayor Stolzmann and Councilmember Dickinson to attend the 2020 convention of the International Council of Shopping Centers on behalf of the City Council; Councilmember Brown seconded – All in Favor.

Councilmember Brown would like Council to consider changing some of the standard language to be more inclusive.

COLORADO COMMUNITIES FOR CLIMATE ACTION – Councilmember Fahey stated CC4CA continues to monitor the State bills on banning single-use plastic and banning polystyrene as well as a new bill on pesticides and herbicides.

917 LAFARGE AVENUE – LANDMARK AND GRANT

RESOLUTION NO. 11, SERIES 2020 – A RESOLUTION DESIGNATING THE DAMIANA HOUSE LOCATED AT 917 LA FARGE AVENUE A HISTORIC LANDMARK

RESOLUTION NO. 12, SERIES 2020 – A RESOLUTION APPROVING A PRESERVATION AND RESTORATION GRANT FOR THE DAMIANA HOUSE LOCATED AT 917 LA FARGE AVENUE

Mayor Stolzmann asked for Council disclosures; hearing none she opened the public hearing.

Planner Selvoski stated this is a request for landmarking and a preservation and restoration grant for 917 La Farge Avenue. Built circa 1891, the home meets the age requirement as well as architectural significance and physical integrity requirements for landmarking. Selvoski reviewed the grant request and what it will be used for. Staff recommends approval of both the landmarking and the grant.

Applicant presentation, Josh Johnston, DAJ Design, reviewed the proposed changes.

Public Comments – None.

Councilmember Lipton moved to approve Resolution No. 11; seconded by Councilmember Fahey .

Mayor Stolzmann closed the public hearing.

Voice vote, all in favor.

Councilmember Lipton moved to approve Resolution No. 12; seconded by Councilmember Fahey.

Voice vote, all in favor.

Vote: Motion carried by unanimous roll call vote.

**RESOLUTION NO. 14, SERIES 2020 IN RE THE ORGANIZATION OF THE REDTAIL RIDGE METROPOLITAN DISTRICT NOS. 1, 2, 3, AND 4 IN THE CITY OF LOUISVILLE, COUNTY OF BOULDER, STATE OF COLORADO, PUBLIC HEARING
(advertised *Daily Camera* 1/28/20)**

Mayor Stolzmann asked for Council disclosures; hearing none she opened the public hearing.

Director Zuccaro reviewed the 390-acre site and its history. In 2008, all of the existing buildings were demolished and a preliminary PUD was approved. It has since expired. The 2008 General Development Plan (GDP) still stands on the property.

He reviewed the current proposal. The applicant, Brue Baukol Capital Partners, requests approval of four Metro District Service Plans within the 390-acre boundary. This is associated with the proposed Redtail Ridge development which will include a separate application for a Comp Plan Amendment, GDP, and Preliminary and Final Plat. The project includes up to 5.8M sq ft of building area to include multi-family residential, senior living residential, and commercial/office development.

The Metro District service plans reflect that proposal. The applicant requests consideration of the Service Plans prior to City Council review of the Comp Plan Amendment, GDP Amendment, and Final Plat due to the developer's desired timing for a special election and to allow the potential start of development later this year. Council approval of the service plans is required before the election can be held.

Director Zuccaro reviewed the service plan proposal which includes four districts to collectively finance capital costs for development; a maximum total of 60 mills – 50 mills for capital improvement debt and 10 mills for operations and maintenance; and a maximum term of debt set at 40 years from first debt issuance. The total capital improvement cost estimate is \$178M with \$135M funded by the Metro District.

He noted there is a provision that the Districts cannot issue debt until a comp plan amendment and the final plat are approved by City Council.

There is a total debt cap of \$168,750,000. Upon formation of the Districts there is a requirement the Districts enter into an Intergovernmental Agreement (IGA) with City. The IGA contemplates ongoing landscaping maintenance in City rights-of-way and funding Transportation Demand Management (TDM) programing. The Financial Plan shows debt issued in 2020, 2023 2028, and 2038 and cannot bear interest over 18%. And, the Districts may impose fees and special assessments within the District boundaries.

Director Zuccaro stated the criteria the Council can consider this evening are from C.R.S 32-1-202(2) and CRS 32-1-203.

Staff finds the criteria are met that with the provisions in Sec. VII.A. of the Service Plans that do not allow imposition of the mill levy and issuance of debt without later Council approval of a Comprehensive Plan Amendment, Final Plat, and Service Plan Amendment. Requiring later approval allows verification that the cost estimates are

supportable and that the Districts can provide services as required under the State Statutes. He noted Council can approve, disapprove, or continue this item tonight.

Mayor Pro Tem Maloney noted this approval is being sought prior to the comp plan and plat. He asked what the downside is doing it this way. Director Zuccaro stated the plan itself needs to clarify needs and costs. This is why staff included a requirement that the applicant formally amend the service plan and get Council sign off after those approvals. This will make sure the financial information concurs with final development plans.

Councilmember Lipton asked which entity would have responsibility for the various improvements. Director Zuccaro stated infrastructure would be turned over to the City but the Districts would provide ongoing maintenance for medians and funding TDM costs. Councilmember Lipton asked where in the process this will be determined. Director Zuccaro stated the final plat will identify this in a subdivision improvement agreement.

Applicant Presentation Jeff Baukol, Brue Baukol Partners, gave background about their company and their experience with metro districts. He stated the need for the District is to cover the improvements on the large site which are estimated to be over \$178 million. He noted all taxes from the District must be spent on public improvements in the District. He noted the request for the District is coming now to allow for a May election.

He noted these considerations 1) as proposed, there will be no individual homeowners in the District to be taxed; 2) the Inclusion Area is set to the existing ConocoPhillips property boundary; and 3) the largest tenants account for 38% of the land and they are aware of the District's financial responsibilities; this assures the new growth is paid by those in the District. There is no tax burden to anyone outside the District.

Baukol stated only taxpayers within the Districts are subject to District debt and there is no tax burden on residents and businesses outside of the District. He stated each district will have its own board but will coordinate the installation of public improvements.

Baukol reviewed the accountability limits on the District's powers and the financial organization. He noted no debt can be issued until the GDP is approved. If the GDP is not approved, the Districts are dissolved. He added all construction must comply with City standards and meet competitive bidding laws.

He noted the rules around accountability and transparency for the Districts including public meeting and reporting requirements.

Baukol added the mill levy rates are in line with those of neighboring metro districts.

Public Comments

David Sinkey, 712 Main Street, stated these districts are complex but they are not evil. All people investing in to the District will know what they are getting into. He added

developers would not use this tool if there were good alternatives and added Council will have many chances to control this process. He asked Council not to hold this up.

Jerome McQuie, 972 St Andrews Lane, stated his concerns are approving the metro district prior to the GDP. He feels Council should wait until they have final information. He stated some items give him pause including the cost of infrastructure; issuing bonds for such a long period; and not knowing specifics about what those bonds are for. He stated that just because this is legal does not make it the right thing to do.

Tom DeLorey, 587 Augusta Lane, stated his concern that the language in the plan allows the boundary to be adjusted at a later date with the City Council's approval. He is concerned neighborhoods could be added at a later date without resident approval.

Debra Baskett, 730 West Willow Street, stated she has 30 years as a transportation planner and has a large interest in this. She stated she supports the service plans; the project will support the community and the Council has sufficient guardrails to guide this and make sure the community is protected in the process.

Brian Topping, 1550 White Violet Way, stated the proper guardrails are in place and it would be better to avoid a situation where the development doesn't happen at all. The project is important to Louisville and to real estate values. The protections in place are enough and he supports it.

James Driessen, Medtronic, stated Colorado is a part of Medtronic's vision to advance their growth and improve operational efficiency. He stated they want to increase their campus in Louisville and increase their ability to attract and retain employees in this area. He recognizes this is an important project to the community.

Isaac Sendros, Avista Hospital CEO, stated ease of access to the hospital is key. Avista's two entrances are restricted; connecting Campus Drive to Tape Drive would be a benefit to the community, patients, and employees. He added the potential for senior living on the site is necessary to meet the needs of the community. Avista supports the project.

Deb Armstrong, 541 North Manorwood Lane, supports this project. She stated getting in and out of the high school is a nightmare and this metro district is key to improving that access and is a benefit to the community. This will give people another reason to live here and will be a boost to the community.

Heather Martin, 120 South Warbler Court stated she supports the resolution and having this Medtronic facility in the community will benefit economic vitality. There are many problems getting into and out of Monarch High School so the infrastructure is needed. Connecting Superior into Louisville would also be a perk for downtown Louisville.

Glenn Segroe, BVSD Planner, stated access on Campus to 88th is a bottleneck for both Monarch schools and all users are affected by this. BVSD has devoted time and

resources to this but has not found a good solution. Emergency access is also a concern. The only true answer is connecting Campus Drive through to 96th street to open multiple routes to the schools. The applicant has listened well to BVSD's concerns and BVSD hopes to see this to project to fruition.

Cindy Bedell, 662 West Willow Street, stated she supports disapproval of the resolution. We don't know what impact it could have; it would be speculative to approve these without a full evaluation of the GDP and Comp Plan amendments. Additionally, she would like Council to consider the fate of the wildlife on this property.

Janet McSmith, 882 West Mulberry Street, stated we need to recognize growth will happen and make wise decisions. Think is a great opportunity that should move forward.

Mayor Stolzmann recommended using the four criteria from the state statutes to frame the conversation. She noted the statute states the City Council shall disapprove the Service Plans unless the applicants provide evidence satisfactory to the Council of each of the following criteria.

(a) There is sufficient existing and projected need for organized service in the area to be serviced by the proposed special district.

Councilmember Dickinson stated he has no doubt there is need for infrastructure at this site.

Councilmember Fahey asked if this is approved tonight and the GDP is not developed would this approval apply to other applicants. Attorney Kelly stated there is a sunset provision in the plan addressing dissolution; it provides that if no bonds are issued within five years of approval of the service plan the Districts would be dissolved.

Mayor Stolzmann stated that without having the GDP in front of her she does not have enough information to know what is needed on the site therefore she does not feel this criteria is met.

Mayor Pro Tem Maloney stated he too is frustrated by looking at this without the GDP but he stated he is open to purposeful development on the property and he agreed with Councilmember Dickinson that the existing infrastructure is not sufficient.

Councilmember Brown also noted he is frustrated by not having the GDP to fully understand what the future needs really are. He stated at this point it is inappropriate as a Council to bind the City without that information.

Councilmember Leh stated he agrees the timing is poor but he appreciates the developer is trying to keep things moving forward. The problem he sees on this criteria is that of course there is a need for services but no one knows what exactly that need is. Without seeing the full plans it is hard to say there is evidence of need for services.

Councilmember Dickinson stated there is clearly a level of discomfort by not having the GDP. He asked the applicant why they are asking for this without the GDP ready. Maryann McGeady, stated state statute does not allow a debt question except at certain elections due to the TABOR amendment. The applicant needs to finance the development as soon as they can after land use approval but cannot do that until the election is held. This skeletal plan provided here has many more details than many other plans at this stage in the process. She added the current infrastructure on the property would not be sufficient for what is allowed under the existing zoning.

Mayor Pro Tem Maloney stated the staff report notes more than 5.8 million sf of development is expected; this is more than twice what was approved in 2009. To say there is no evidence in here to support this doesn't seem right.

(b) The existing service in the area to be served by the proposed special district is inadequate for present and projected needs

Councilmember Dickinson stated it is clear it will be needed; there is not service for what is there and more than that will be needed.

Mayor Stolzmann stated she feels many of these services are duplicative of existing services. She is not comfortable giving the power of policing to a special district. She stated the same for fire, mosquito control, covenant enforcement, transportation improvements, and park and recreation improvements.

Councilmember Lipton stated for any development on this site there is a need for organized services. Two significant neighbors the school district and the hospital say what exists today is inadequate. They need services and infrastructure. Our intent has always been for the user to finance additional services. This is not going to be a single user site anymore so there must be a way fund these services.

Mayor Stolzmann asked if Councilmember Lipton wants to extend these types of powers to the District. Councilmember Lipton stated his understanding of the plan is that the District would provide an additional layer of security to the Police Department and for Fire. It would help finance improvements that would be dedicated to the City. That can be clarified and cleaned up.

Councilmember Dickinson stated the documents read to him that they would be building a police and fire annex that would be a benefit to the City.

Councilmember Fahey stated currently there is an almost nonexistent need for services on that site but if there are new buildings the calls for service will increase.

Mayor Stolzmann stated she is uncomfortable granting security services authority to a special district. The City is not obligated to grant all of these authorities to the District

and the City should be careful what authority and power we give up to another governmental entity. She is also concerned by of the additional condemnation power the District would have.

Councilmember Leh stated that without seeing the GDP and Comp Plan amendments, it is hard to say the criteria is met. He wants to make sure we are following the law and he asked if this is the quality of evidence we need to judge this criteria. Attorney Kelly stated this is the evidence presented by the applicant and the Council will have to weigh the evidence and make a determination based on what they have tonight.

Councilmember Leh asked if the City Attorney feels that threshold has been met. City Attorney Kelly stated yes; it comes down to the provisions in the plan that anticipate that future land use approvals must occur and that future service plan amendments require Council approval.

Councilmember Leh stated with that he feels criteria one is met.

Mayor Pro Tem Maloney stated that in reviewing the service plans all of the powers are subject to an IGA with the City. If the City does not want to give those powers it can be addressed when we consider the IGA specifics.

(c) The proposed special district is capable of providing economical and sufficient service to the area within its proposed boundaries.

Mayor Stolzmann suggested amending the language in Section VG regarding Inclusion/Exclusion language. She suggested amending it as follows:

The Districts shall not include within any of their boundaries any property outside the Service Area ~~without the prior written consent of the City~~, nor shall it exclude any property from the District ~~without the prior written consent of the City~~.

Councilmember Lipton stated he supports the spirit of that suggestion but asked if there are legal implications to making this change for the applicant.

McGeady stated this language was included because sometimes the legal descriptions miss a small amount of property so this allows a way to fix those errors and also allows for an owner to buy additional property to include. She noted that under state statute even with city approval, the district cannot unilaterally include properties without property owner consent. The applicant supports this language amendment.

Councilmember Dickinson stated his understanding is that special districts can only annex and add properties with the owner's permission. He feels keeping this language adds another layer of security by requiring districts also get City approval.

Mayor Stolzmann stated removing this language makes it clear the intent is not to include a neighborhood. She noted a future Council could approve a service plan change to allow for adding additional areas. Attorney Kelly stated the service plan has limitations on inclusion and exclusion powers under state law. As written, any addition of property would require City approval as well as written approval from property owners.

Councilmember Lipton asked how a service plan amendment would happen. City Attorney Kelly stated the same process for this initial approval would be used.

(d) The area to be included in the proposed special district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

Mayor Stolzmann asked Jim Manire, the City's financial consultant, if he had evaluated whether or not the development timeline was reasonable and if there was market support for what is proposed. Manire stated his review does not include a market study but rather evaluates the consistency of the debt plan with respect to the projections provided.

Mayor Stolzmann asked if all of the districts are equally loaded or is one district more important to pay the debt. He stated the financing plan should be viewed as a possible execution of a debt plan but not the final plan.

Mayor Stolzmann stated looking at the distribution of development across the districts it seems 2 and 3 have good plans but 4 has a lot yet to be determined with the majority of the debt coming from that district. The way she reads it there is not sufficient evidence the debt can be repaid when the majority is in this one district and there is no market study to support the numbers.

Councilmember Brown asked Manire if his analysis takes the applicant's information at face value and assesses if the numbers presented will work. Manire stated yes, he is working with the numbers presented by the developer.

Councilmember Brown asked the City Attorney if it is correct that in the end the financial plans may or may not be executed as presented here. City Attorney Kelly stated that is correct.

Councilmember Lipton stated he has never seen a market study looking out more than five years that ended up exactly as presented. This will probably develop differently than any market study given today. That is the normal process.

Councilmember Lipton asked what is the risk to the City if the market changes and it doesn't develop as proposed. Attorney Kelly stated from a legal standpoint any debt taken on by the District is not associated with the City and does not put the City at risk.

Kim Crawford, Butler Snow (City's public finance counsel), stated none of the District's debt is the City's debt. The downside of it not developing or it not proceeding as planned means there is likely a downturn in the market that is detrimental to everyone. For the applicant to issue bonds they have to present the plans to bond counsel and no bond counsel is going to recommend proceeding unless they can demonstrate appropriate cash flow. The developer is trying to guess right now what they can do with the property over time and basing the numbers on that.

Councilmember Dickinson stated the risk for the developer is that they can't get anyone to invest in the project and nothing happens; the risk for the investor is they won't earn a profit on the project; the risk for land owners is that the mill levy may increase way beyond what is now anticipated. However, there is no risk for the City or its residents. He stated he is comfortable that the risk is not the City's.

Mayor Stolzmann asked staff when the financial information was submitted. Director Zuccaro stated staff has been working on the project as a whole for many months, but the financial numbers were submitted about a month ago.

Councilmember Brown is concerned the rent of senior housing on the site would be affected by a large mill levy. He is worried the developer is not bound to a particular development plan at this time. He is also worried that at some point the developer would need to build single family homes to discharge the debt.

Councilmember Dickinson noted the City would have to approve such a change and that is not the pulse of this Council.

Mayor Stolzmann stated she is concerned about risks of incomplete infrastructure if the District is unable to perform their duties. She has concerns about condemnation authority being given to the District and there being condemnation of City facilities through that. She feels this has not been adequately reviewed to know if the City is protected or not. She believes there are other potential risks for the City. She added this proposal has a presumed land use mix, but if it doesn't develop as proposed there will be pressure to change land use.

Councilmember Lipton asked if the residential senior housing would be individually owned or part of a complex. Bakaul stated the proposal has no individually owned residential. Councilmember Lipton stated these would all be rentals and rental rates can be affected by the taxes, but this is not the same as some districts we have heard about where individual homeowners have been directly affected.

Public Comments

John Leary, 1116 Lafarge Avenue, stated the request is to zone the property for senior living, but it is not for a specific type of senior housing. He stated the first two criteria are intuitive and require a lower level of evidence but the second two require proof. If the

assumptions are right it will work but if the assumptions are wrong it won't. Council needs that information to make this decision. He feels the senior housing that is being proposed will be very expensive and will only target a very small section of the City's senior population.

Tom Delorey, 587 Augusta Lane, stated he would prefer clear language that the District is never going to annex outside the service area.

Mayor Stolzmann stated it is unfortunate Council is trying to do this without the GDP. If she had a GDP with details it would be easier to approve a service plan with concrete information and to understand whether or not it is reasonable. With that information lacking tonight, she doesn't feel any of the criteria are satisfied. She asked if Council would be interested in continuing this until there is a GDP to consider.

Mayor Pro Tem Maloney moved to approve Resolution No. 14; Series 2020; Councilmember Dickinson seconded the motion.

Councilmember Brown stated he is supportive of something like this development on this site, but he stated he does not see satisfactory evidence the criteria are met. The applicants have not provided sufficient evidence and the information is entirely speculative. He stated he cannot bind the City to development plans we have not seen. As State law stated the Council shall disapprove this unless satisfactory evidence is presented, he feels he must vote no.

Councilmember Fahey agreed with Brown; without a GDP to understand the details she stated she cannot vote yes in good conscious.

Councilmember Lipton stated that approving this tonight does not approve the GDP or implicitly imply we will approve the land uses. There are guard rails in place and no bonds will be issued before we see the GDP. All it does is allow for an election. He stated he doesn't think a market study will give any revelations about the property and there are enough safeguards in place for this to proceed. He noted the bond issuers will review these at a level we never will. The framework is there and he stated he is willing to move forward with the understanding we are still in control of this process and the final land use. By delaying this tonight we may delay some very good things for the community for no reason. He stated he is willing to support it tonight subject to the Mayor's earlier proposed minor change.

Councilmember Dickinson stated everyone would rather have the GDP first but that would delay the project by six months. He noted Council can approve this today and deny the GDP later if it doesn't meet our standards. Approving this only allows an election; there is no risk to the City now. We have the power to make changes later; we should not hold them up for six months.

Mayor Stolzmann stated she feels the law requires denial tonight. She stated the applicant could have brought forward materials in whatever order they wanted to and they chose this order and there is not sufficient evidence by doing it in this order.

Mayor Stolzmann offered a friendly amendment for language changes for all four service plans to include the following:

1. Revise Section V.A.7 to authorize mosquito control services only pursuant to an intergovernmental agreement with the City.
2. Revise Section V.B.3 to authorize covenant enforcement only pursuant to an intergovernmental agreement with the City.
3. Revise the second sentence of Section V.G to read as follows: "The Districts shall not include within any of their boundaries any property outside the Service Area ~~without the prior written consent of the City~~, nor shall it exclude any property from the District ~~without the prior written consent of the City.~~"
4. Revise the fourth paragraph of Section VII.A to read as follows: "The build-out assumptions in the Financial Plan assume the Comprehensive Plan Amendment filed in June 2019 with the city, is approved in 2020. The District shall not impose a mill levy, impose any Fees, or issue Debt, impose a special assessment, or exercise condemnation until a Comprehensive Plan Amendment is approved that allows for the build-out assumed in the Financial Plan.
5. Revise Section VII.E to read as follows: "The District may impose a mill levy ~~as a primary source of revenue~~ for repayment of debt service and for operations and maintenance. ~~The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time.~~ In no event shall the debt service mill levy in the District exceed the Maximum Debt Mill Levy, except as provided in Section VII.C above."
6. Revise Section VIII.B to require the following additional information be included as part of the annual report:
 11. A list of Board of Directors with names, phone numbers, addresses, date elected, conflicts of interest, and disclosure of any felonies.
7. Revise Section X.2 to read as follows: "All meetings of the Board of Directors shall be held in Louisville in locations that are accessible and open to the public.
8. Revise Section XII to strike subsections 5-9.

Mayor Pro Tem Maloney accepted the friendly amendments, Councilmember Dickinson accepted the friendly amendments.

Mayor Pro Tem Maloney stated everyone is trying to do their best to interpret state law and he feels his interpretation is in line with the intent of the State law. The Council still has safeguards when we approve or deny the GDP, Comp Plan amendment, service plan amendments, and others. If the financial analyst had found anything that was not normal and customary he would have told us. All we are doing tonight is creating an opportunity to work through all the details; we have options to deny later in the process. As to residential development over time, who knows what will happen 10-20 years from now; it might be in the City's best interest to have more housing. To do something that encumbers the City in the long term makes no sense.

Councilmember Leh asked for clarification on Section XII of the plans and if findings are needed on those criteria. Director Zuccaro noted these sections of the state statute are applicable to counties, not municipalities. Attorney Kelly agreed those sections are meant for counties and staff has not addressed those criteria in the staff report.

Councilmember Leh made a friendly amendment that Section XII 5-9 be stricken for each of the four districts. Mayor Pro Tem Maloney and Councilmember Dickinson agreed to the amendment.

Councilmember Leh stated having heard the discussion tonight, he feels there is enough evidence for criteria A-D to support approval of the plan. He stated no one is at fault for the timing predicament. He would like to keep it alive at this point knowing we have the option later to deny a service plan amendment if it is not in the City's favor.

Mayor Stolzmann closed the public hearing.

Vote: Motion passed 4-3; Councilmember Fahey, Mayor Stolzmann, and Councilmember Brown voting no.

Councilmember Lipton left the meeting at 9:47 pm.

ORDINANCE NO. 1791, SERIES 2020 – AN ORDINANCE AMENDING VARIOUS PROVISIONS OF THE LOUISVILLE MUNICIPAL CODE REGARDING WATER AND SEWER TAP FEES – 2ND READING, PUBLIC HEARING (advertised *Daily Camera* 1/26/20) – continued from 2/4/20

Mayor Stolzmann reopened the public hearing and asked for disclosures. No disclosures.

Director Kowar reviewed the proposed changes from the last meeting and input from the City Water Attorney.

Public Comments – None.

Mayor Pro Tem Maloney asked for a change in 2E to make the language gender neutral; otherwise he supports it as amended. Councilmember Brown agreed.

Public Comments – None.

Mayor Pro Tem Maloney moved to approve Ordinance No. 1791 with his amendment; seconded by Councilmember Leh.

Vote: Motion carried by unanimous roll call vote.

ADJOURN

Members adjourned at 9:50 pm.

Ashley Stolzmann, Mayor

Meredyth Muth, City Clerk